

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HUSSEIN S. HUSSEIN, an individual,

Plaintiff,

v.

UNIVERSITY AND COMMUNITY
 COLLEGE SYSTEM OF NEVADA, et
 al.,

Defendants.

3:04-CV-0455 JCM (GWF)

3:05-CV-0076 JCM (GWF)

Date: N/A

Time: N/A

ORDER

Presently before the court is plaintiff Hussein S. Hussein's emergency motion to vacate the court's January 9, 2012, hearing. (Doc. #942). Appellant Jeffrey A. Dickerson, plaintiff's former counsel, joined plaintiff's motion. (Doc. #943). Defendants Nevada System of Higher Education, et. al. then filed a notice of continued jurisdiction in the Ninth Circuit Court of Appeals. (Doc. #944).

Plaintiff states that on December 8, 2011, he and Mr. Dickerson filed petitions for panel rehearing and for rehearing *en banc* with the Ninth Circuit. (Doc. #942). Thus, plaintiff argues that this court lacks jurisdiction to rule on docket #940 because the Ninth Circuit retains jurisdiction pending a decision on the petition for rehearing. (Doc. #942).

Pursuant to Federal Rule of Appellate Procedure 41(d)(1), "[t]he timely filing of a petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, stays the mandate until disposition of the petition or motion" *See also Beardslee v. Brown*, 393 F.3d 899, 901 (9th

1 Cir. 2004) (stating that the circuit court retains jurisdiction until the mandate issues); *Sgaraglino v.*
2 *State Farm Fire & Cas. Co.*, 896 F.2d 420, 421 (9th Cir. 1990).

3 Good cause appearing, and there not being any objections,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff Hussein S.
5 Hussein's emergency motion to vacate the court's January 9, 2012, hearing (doc. #942) be, and the
6 same hereby is, GRANTED.

7 DATED this 4th day of January, 2012.

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10 UNITED STATES DISTRICT JUDGE